

answer may be extended once for a period of no more than thirty days by the administrative law judge upon a showing of good cause provided a motion requesting an extension of time is filed within thirty days after the date the complaint is filed by the Director. A copy of the answer shall be served on the Director.

(c) *Content.* The respondent shall include in the answer a statement of the facts which constitute the grounds of defense and shall specifically admit or deny each allegation set forth in the complaint. The respondent shall not deny a material allegation in the complaint which the respondent knows to be true or state that respondent is without sufficient information to form a belief as to the truth of an allegation when in fact the respondent possesses that information. The respondent shall also state affirmatively special matters of defense.

(d) *Failure to deny allegations in complaint.* Every allegation in the complaint which is not denied by a respondent in the answer is deemed to be admitted and may be considered proven. No further evidence in respect of that allegation need be received by the administrative law judge at any hearing. Failure to timely file an answer will constitute an admission of the allegations in the complaint.

(e) *Reply by Director.* No reply to an answer is required by the Director and any affirmative defense in the answer shall be deemed to be denied. The Director may, however, file a reply if he or she chooses or if ordered by the administrative law judge.

[50 FR 5172, Feb. 6, 1985; 50 FR 25073, June 17, 1985]

§ 10.137 Supplemental complaint.

False statements in an answer may be made the basis of a supplemental complaint.

§ 10.138 Contested case.

Upon the filing of an answer by the respondent, a disciplinary proceeding shall be regarded as a contested case within the meaning of 35 U.S.C. 24. Evidence obtained by a subpoena issued under 35 U.S.C. 24 shall not be admitted into the record or considered unless leave to proceed under 35 U.S.C. 24 was

previously authorized by the administrative law judge.

§ 10.139 Administrative law judge; appointment; responsibilities; review of interlocutory orders; stays.

(a) *Appointment.* An administrative law judge, appointed under 5 U.S.C. 3105, shall conduct disciplinary proceedings as provided by this part.

(b) *Responsibilities.* The administrative law judge shall have authority to:

- (1) Administer oaths and affirmations;
- (2) Make rulings upon motions and other requests;
- (3) Rule upon offers of proof, receive relevant evidence, and examine witnesses;
- (4) Authorize the taking of a deposition of a witness in lieu of personal appearance of the witness before the administrative law judge;
- (5) Determine the time and place of any hearing and regulate its course and conduct;
- (6) Hold or provide for the holding of conferences to settle or simplify the issues;
- (7) Receive and consider oral or written arguments on facts or law;
- (8) Adopt procedures and modify procedures from time to time as occasion requires for the orderly disposition of proceedings;
- (9) Make initial decisions under § 10.154; and
- (10) Perform acts and take measures as necessary to promote the efficient and timely conduct of any disciplinary proceeding.

(c) *Time for making initial decision.* The administrative law judge shall set times and exercise control over a disciplinary proceeding such that an initial decision under § 10.154 is normally issued within six months of the date a complaint is filed. The administrative law judge may, however, issue an initial decision more than six months after a complaint is filed if in his or her opinion there exist unusual circumstances which preclude issuance of an initial decision within six months of the filing of the complaint.

(d) *Review of interlocutory orders.* An interlocutory order of an administrative law judge will not be reviewed by the Commissioner except: